

ORIGINAL



RECEIVED

2010 SEP 24 A 10:52

AZ CORP COMMISSION
DOCKET CONTROL



September 23, 2010

Arizona Corporation Commission
DOCKETED

SEP 24 2010

To: Arizona Corporation Commission
Attn: Docket Control

DOCKETED BY	<i>RDR</i>
-------------	------------

Commissioners

KRISTIN K. MAYES, Chairman
GARY PEIRCE
SANDRA D. KENNEDY
PAUL NEWMAN
BOB STUMP

Re: Litchfield Park Service Company's Comments on Adaman Mutual Water Company for Approval to Issue Stock—Docket No. W-01997A-09-0297

Dear Commissioners:

On behalf of Litchfield Park Service Company (LPSCO), I am writing to inform you of a matter of great concern to us. As you know, LPSCO holds a Certificate of Convenience and Necessity from the Commission to provide water and wastewater service in Litchfield Park and portions of the City of Goodyear. We understand that Adaman Mutual Water Company (Adaman) is presently seeking approval from the Commission to issue stock for the express purpose of allowing Adaman to then sell groundwater to the City of Goodyear (Goodyear) that is pumped from the Adaman water service area and then transported and delivered to the Goodyear. Over the past several years, since learning of this plan to transport water from the remote well field located in Adaman's service area to Goodyear, we have been active in discussing the potential negative implication of this transportation to LPSCO's service area, as well as other groundwater users in the region. As you consider the request from Adaman, we would like to make you aware of these concerns as we believe there is a real potential for risk to the water supply and rates for customers within LPSCO's service area. For this reason, it is important for you to have this information in relation to your review of the pending request.

Based on the filings submitted by Adaman, we understand that Adaman and Goodyear have entered into a "Bulk Water Sales and Treatment Agreement," dated

August 27, 2007. See Exhibit B to Adaman's Motion to Amend Application, filed with the Commission on March 22, 2010. LPSCO learned of this agreement approximately in the fall of 2008. Adaman claims that this is a "creative low-cost solution" that is in the public interest and that the arrangement benefits both Adaman, which will receive an arsenic treatment facility paid for by Goodyear, and Goodyear, which will be able to import water from outside its service area via the remote well field located in Adaman's water service area. See Adaman's Motion to Amend Application, filed with the Commission on March 22, 2010. However, LPSCO believes this arrangement is detrimental to other water users in the region and has the potential of increasing costs for customers within LPSCO's service area.

First, we understand that although pursuant to Arizona law, bulk water sale agreements between providers require the express approval of the Arizona Department of Water Resources (ADWR), the agency has yet to legally approve the agreement in accordance with law. See A.R.S. § 45-45-492(C). In fact, LPSCO believes there may be substantive issues involved with ADWR's review, and at this time it is unclear that Goodyear and Adaman can obtain this approval consistent with current ADWR statute and rules. Specifically, ADWR has adopted a Substantive Policy Statement that addresses the criteria for approvals of such groundwater bulk sale agreements and this Policy requires ADWR to review and evaluate, among other things, the impact of the agreement on "areas where groundwater withdrawals may cause the migration or poor quality or disrupt a remedial action or contaminant plume containment plan."

It is not clear that the Adaman-Goodyear agreement can be appropriately approved by ADWR because LPSCO understands that there is serious potential for increased pumping in the Adaman area to cause plume migration for contaminated groundwater in the area. This migration may cause several existing wells, as well as planned wells, used to support water deliveries to LPSCO customers to be contaminated. This would put at risk LPSCO's ability to meet the needs of its customer base and may cause our water company and customers to bear increased costs and expenses to remedy any wells that are impacted. This could directly impact the water rates of our customers. We understand that Adaman claims that the arrangement with Goodyear is needed to benefit the customers within Goodyear's service area; however, we believe it is important for the Commission to consider the full impact of transportation of water from Adaman's service area on all water companies regulated by the Commission, and not only the water users served by the City of Goodyear. Certainly, it will be beneficial for the water users in the City of Goodyear's service area to obtain good quality water from Adaman, but to the extent that groundwater transportation causes other water users, served by private water companies, in the region to be impacted by plume contamination, we believe regulatory agencies such as ADWR or the Corporation Commission should not allow such groundwater transportation.

In addition to plume migration concerns, LPSCO is also concerned about the potential negative impacts to the regions groundwater supplies from the potentially very large volumes of water that may be involved in the Adaman-Goodyear bulk groundwater transportation over time. We understand that the bulk agreement essentially provides that

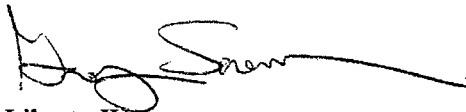
Adaman can deliver for potentially 100 years as much water as Goodyear needs as long as the volume is determined by the parties to be "sustainable." See Exhibit B to Adaman's Motion to Amend Application, filed with the Commission on March 22, 2010. The agreement provides that the parties alone determine what is considered sustainable by what they find to be "mutually acceptable" impacts, with the only limitation being that Goodyear can not take so much groundwater out of Adaman's service area that the transportation impacts Adaman's ability to serve its own customers. See paragraph 4.1 of page 2 of the "Bulk Water Sales and Treatment Agreement." The agreement, in essence, provides that the parties could transport potentially very large volume of groundwater away from Adaman's service area for use in Goodyear which could have significant negative impacts on the availability of groundwater supplies in the region for other users. In fact, we understand that pursuant to a hydrology study commissioned by the Goodyear, the City believes it is "sustainable" to transport up to 10 million gallons a day from the Adaman area, or more than 11,000 acre-feet of water per year.¹ LPSCO is concerned that this evaluation failed to properly take into account the impacts of this activity on other water users. LPSCO believes that pumping such large volumes of water from the Adaman area has both the potential to shift groundwater flow patterns in the region that may not only cause migration of plume containments, as mentioned above, but could negatively impact the availability of supplies. This potential could result in increased costs to LPSCO's customers if the groundwater supplies and wells LPSCO will rely on to meet its planned needs are essentially pumped out of region to meet the needs of future customers within the City of Goodyear.

Third, we understand that there may be a legal question regarding state law restrictions on the establishment of remote well fields and regulations related to legal authority to withdraw groundwater pursuant to a service area right. ADWR regulates state law regarding the use of remote well fields and service area rights. It is our understanding that the Adaman-Goodyear agreement involves Adaman pumping groundwater not for the benefit of its own customer base as is the purpose of the groundwater service area right issued by ADWR, but rather for the benefit of the customers of the City of Goodyear. This essentially amounts to Goodyear establishing a remote well field in the Adaman service area to extend its service area. Until ADWR makes a determination on its review and approval of the bulk sale agreement, it is uncertain whether there is a proper the legal right for Adaman to use its service area right for the benefit of the City of Goodyear and for the City to utilize this remote well field for its service area. We believe it is reasonable for the Commission to delay a determination on Adaman's request to issue stock until ADWR makes a final decision on this matter.

¹ This information was obtained from a study commissioned by the City of Goodyear entitled "Adaman Mutual Water Company Hydrologic Study and Groundwater Model" dated January 2007. This study defined the "sustainability" criteria to be the maximum amount that pumping for Goodyear could draw down Adaman's well field and still enable Adaman meet its own customers needs. Further, LPSCO has learned that ADWR did not accept this 2007 study in support of the City of Goodyear's pending Application to Modify its 100-year Assured Water Supply Designation. Again, we believe this further supports the conclusion that is not clear yet what volume of groundwater transportation, if any, ADWR may allow under its review of the bulk sale agreement.

We understand that these issues do not directly impact the current request from Adaman to issue stock; however, LPSCO is very concerned about the long-term regional impact of the Adaman-Goodyear groundwater transportation and its potential impact on the water supply and rates for LPSCO's service area. We believe it is important for the Commission to be fully informed regarding range of issues involved in the bulk sale arrangement between Adaman and Goodyear that has necessitated Adaman's request to issue stock. We would urge the Commission to consider the impact to LPSCO's service area, in making its decision on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Sorensen", with a long horizontal flourish extending to the right.

Liberty Water
Greg Sorensen, Director of Operations